

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

ANTONIO DIAZ,

Petitioner,

v.

RYAN ANDERSON, Warden,

Respondent.

Case No. 1:23-cv-01783-NODJ-SKO-HC

ORDER GRANTING MOTION FOR  
RECONSIDERATION AND VACATING  
FINDINGS AND RECOMMENDATIONS

ORDER GRANTING PETITIONER'S  
MOTION TO AMEND PETITION TO  
NAME A PROPER RESPONDENT

ORDER SUBSTITUTING RYAN  
ANDERSON AS RESPONDENT IN THIS  
MATTER

On December 29, 2023, Petitioner filed a petition for writ of habeas corpus in this Court. The Court issued an order directing Petitioner to amend the Respondent. (Doc. 4.) Petitioner was granted thirty (30) days to comply with the court order, and he was advised that failure to comply would result in a recommendation that the petition be dismissed. More than thirty (30) days passed, and Petitioner did not comply. Therefore, on February 13, 2024, the Court issued Findings and Recommendations to dismiss the petition for lack of jurisdiction and failure to comply with a court order. (Doc. 7.)

On February 29, 2024, Petitioner filed a motion for reconsideration. (Doc. 8.) He states he does not read or write English but has the assistance of another inmate. He asks that he be granted leave to amend the Respondent to Ryan Anderson, Warden of Pleasant Valley State

Prison. Good cause having been presented, the Court will grant Petitioner's motion. Petitioner has named the proper respondent since Ryan Anderson is the warden at his institution and he has "day-to-day control over" the petitioner. Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992).

**ORDER**

Accordingly, IT IS HEREBY ORDERED:

- 1) Petitioner's motion for reconsideration (Doc. 8) is GRANTED;
- 2) The Findings and Recommendations of February 13, 2024, (Doc. 7) are VACATED;
- 3) Petitioner's motion to amend and name a proper respondent is GRANTED; and
- 4) Ryan Anderson, Warden, is hereby SUBSTITUTED as Respondent in this matter.

IT IS SO ORDERED.

Dated: March 4, 2024

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE